

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JUAN VIANEZ,

Plaintiff,

v.

**DISTRICT COURT OF
OKLAHOMA BUREAU OF
PRISONS (sued as OK) (F.D.C.) and
OKLAHOMA (U.S.P./E.D.C.)
Case No. 13-cv-127-GKF-FHM,**

Defendants.

Case No. CIV-15-75-R

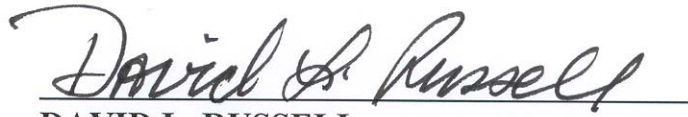
ORDER

Before the Court is the Report and Recommendation of United States Magistrate Judge Suzanne Mitchell. Doc. No. 4. No objection to the Report and Recommendation has been filed,¹ nor has an extension of time in which to object been sought or granted. Therefore, the Report and Recommendation is ADOPTED in its entirety and Plaintiff's complaint is DISMISSED without prejudice to refiling.²

¹ Plaintiff did file a "Declaration of IN FORMA PAUPERIS/ORAL HEARING (A)(2)," Doc. No. 5, but this document does not include any specific objection to the Report and Recommendation. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996) ("[O]nly an objection that is sufficiently specific to focus the district court's attention on the factual and legal issues that are truly in dispute will advance the policies behind the Magistrate's Act that led us to adopt a waiver rule in the first instance. Therefore, we hold that a party's objection to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.").

² Under LCvR3.1, Plaintiff was required to number each party separately in the caption of his complaint. Because he failed to follow this rule, it is unclear how many parties Plaintiff has named as defendants. *See* Doc. No. 1. Although this case was originally docketed with three defendants, (1) District Court of Oklahoma, (2) Bureau of Prisons (sued as OK FDC), and (3) State of Oklahoma (VSP/EDC), Judge Mitchell construed the complaint as being brought against two defendants: (1) a federal district court in Oklahoma, and (2) the federal district court for the Eastern District of Oklahoma. Doc. No. 4, at 3. Even if one construes the complaint as being brought against the three defendants shown in the Docket, the conclusions in the Report and Recommendation are equally applicable. *See Simmat v. U.S. Bureau of*

IT IS SO ORDERED this 30th day of March, 2014.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

Prisons, 413 F.3d 1225, 1238-39 (10th Cir. 2005) (holding that the Bureau of Prisons is subject to suit only for relief other than money damages); *Higginbotham v. Oklahoma ex rel. Oklahoma Transp. Comm'n*, 328 F.3d 638, 644-45 (10th Cir. 2003) (applying Eleventh Amendment immunity for claims brought against Oklahoma and its agencies); Doc. No. 1 (seeking only monetary relief).